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**FEDERAL BUREAU OF INVESTIGATION
UNITED STATES DEPARTMENT OF JUSTICE**

Mr. William Caton
Acting Secretary
Federal Communications Commission
1919 M Street, N.W.
Room 222
Washington, D.C. 20554

Dear Mr. Caton:

Enclosed are an original, nine copies, and a diskette copy of U S WEST's Comments in response to the Notice of Inquiry in CS 97-141 released June 6, 1997. Please date stamp and return the duplicate copy also provided with this filing.

Should you have any questions regarding the diskette, please call me at the above number.

Sincerely,

Rebecca W. Ward

Rebecca W. Ward

Enclosure

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In the Matter of)
)
Annual Assessment of the Status of) CS Docket No. 97-141
Competition In the Market for the)
Delivery of Video Programming)

July 23, 1997

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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554

In the Matter of)	
)	
Annual Assessment of the Status of)	CS Docket No. 97-141
Competition In the Market for the)	
Delivery of Video Programming)	

COMMENTS OF U S WEST, INC.

U S WEST, Inc. ("U S WEST") herein submits its comments regarding the Federal Communications Commission's ("Commission") Fourth Annual Report ("1997 Competition Report") to Congress on the status of competition in the multichannel video programming market. U S WEST conducts business through two main subsidiaries: U S WEST Media Group, Inc. ("U S WEST Media Group") and U S WEST Communications Group, Inc. ("U S WEST Communications Group"). U S WEST Media Group includes cable television, wireless, directory, and international subsidiaries.¹ MediaOne, a part of U S WEST Media Group and the nation's third largest multiple system operator ("MSO"), provides Broadband services (comprised of entertainment, information, and communications) to more than five million customers across the United States.² U S WEST Communications

¹ U S WEST Media Group has recently announced agreements to merge its wireless subsidiary, U S WEST NewVector Group, Inc., with AirTouch Communications and to sell its directory publishing subsidiary, U S WEST DEX, Inc., to U S WEST Communications Group.

² In November, 1996, Continental Cablevision, Inc. ("Continental") merged with U S WEST, Inc. On May 13, 1997, Continental changed its name to MediaOne.

Group includes subsidiaries offering a full range of telecommunications and information services. Its largest subsidiary, U S WEST Communications, Inc., is the incumbent local telephone provider in 14 western and mid-western states and offers Title VI cable service in Omaha, Nebraska.

I. INTRODUCTION AND SUMMARY

Pursuant to federal law, the Commission is required to report annually to Congress on the status of competition in the market for the delivery of video programming.³ In its Notice of Inquiry,⁴ the Commission invites commenters to submit information to assist the Commission as it prepares its 1997 Competition Report on competition in markets for the delivery of video programming. The 1997 Competition Report will update the Commission's assessment of the status of competition and report on changes in the competitive environment since the Commission submitted its "1996 Competition Report" to Congress. In particular, the Commission seeks comment regarding its conclusions in the 1996 Competition Report, current information and data regarding changes over the past year, and fact-based projections for the future development of competition in the video programming services marketplace.

In these comments, U S WEST discusses how the Telecommunications Act of 1996 ("1996 Act")⁵ has led to heightened competitive activity in the multichannel

³ 47 U.S.C. § 548(g).

⁴ In the Matter of Annual Assessment of the Status of Competition in Markets for the Delivery of Video Programming, CS Docket No. 97-141, Notice of Inquiry, FCC 97-194, rel. June 6, 1997 ("NOI").

⁵ Telecommunications Act of 1996, Pub. L. No. 104-104, 110 Stat. 56 (1996).

video market, with particular regard to the areas where U S WEST currently provides video programming services. The various types of alternative video providers, the technologies they use and how they compete head to head against MediaOne are illustrated. U S WEST also explains the factors that go into MediaOne's competitive prices for video programming service, and lastly, notes increasing instances of anti-competitive behavior regarding pole attachment prices.

II. THE 1996 ACT HAS FURTHER OPENED THE MULTICHANNEL VIDEO PROGRAMMING MARKET TO COMPETITION, RESULTING IN AN INCREASED AMOUNT OF COMPETITION IN THE AREAS WHERE U S WEST PROVIDES VIDEO PROGRAMMING.

Since the February 8, 1996, enactment of the 1996 Act, there has been increased competition in the video programming marketplace from competing cable operators and alternative providers of video programming, such as direct broadcast satellite ("DBS") services, microwave-based wireless cable operators (or multichannel multipoint distribution service ("MMDS")), private cable or satellite master antenna television providers ("SMATV"), and open video system ("OVS") providers. This array of competitive providers has been successful in extending the delivery of its video programming into various rural and urban markets that were served previously by a single provider of multichannel video services.

When it passed the 1996 Act, Congress was clearly aware that full-fledged competition in the video programming marketplace would not occur overnight. This knowledge is directly reflected in Section 301(b)(4) of the 1996 Act which provides that rate regulation of the cable programming services tier ("CPST") for large cable

companies will not sunset until March 31, 1999.⁶ And, while competition may not have manifested itself exactly as some in Congress and other industry watchers predicted, competition is nonetheless thriving in a number of markets, and consumers are reaping the benefits of enhanced systems and expanded product offerings.

The NOI solicits updated information on the cable industry and other competitors in markets for the delivery of video programming. A significant amount of competitive activity in the multichannel video programming market is taking place in the 19 states where MediaOne conducts its Broadband business. These comments provide many examples of the kinds of activity and the types of competitors.

III. U S WEST IS EXPERIENCING MULTICHANNEL VIDEO COMPETITION FROM VARIOUS TYPES OF ALTERNATIVE PROVIDERS ACROSS THE UNITED STATES.

As the Commission noted in its January, 1997, report on the status of competition in the video marketplace, cable's competitors today control 11 percent of the multichannel video market and have been growing their subscribership at an average annual rate of 22 percent since 1990.⁷ From the end of 1995 to the end of 1996, the number of DBS subscribers doubled from 2.2 million to nearly 4.4 million. As of the end of March, 1997, the United States direct-to-home industry served

⁶ Sometimes referred to as the expanded basic tier, the CPST is the tier of service which typically contains the most popular satellite-delivered non-premium cable television networks.

⁷ Annual Assessment of the Status of Competition in the Market for the Delivery of Video Programming, CS Docket No. 96-133, Third Annual Report (1997).

approximately 7 million TV households.⁸ Not surprisingly, DBS has quickly established itself as the fastest growing consumer electronics product in history. Paul Kagan Associates, a leading industry analyst, projects that the number of DBS and C-band subscribers will reach 13.7 million by the end of the year 2000. Additionally, Kagan projects that there will be five million “wireless cable” and 1.3 million telco video subscribers by that time, bringing to 20 million the total number of non-cable multichannel video homes or 28 percent of the multichannel video universe.⁹

Today, cable companies have begun to compete in the delivery of data and telephone services and telephone companies have begun to offer multichannel video services. Telephone companies, including PacBell, Ameritech, BellSouth, and U S WEST Communications, currently offer video services through Title VI cable franchises or MMDS technologies.

A. Local Telephone Companies Are Providing Video Competition Using Cable Technology.

Ameritech, through its cable subsidiary, Ameritech New Media, Inc. (“Ameritech”), has been granted cable franchises for six Michigan communities served by MediaOne, representing nearly 62,000 homes passed (Plymouth, Plymouth Township, Northville, Northville Township, Canton Township, and Madison Heights). The Commission has found effective competition to exist in five

⁸ Sky Report, May 1997, Vol. 4, number 5, at 1.

⁹“Multichannel TV Projections,” Cable TV Investor, No. 512, at 3 (Mar. 10, 1997).

of these six franchise areas.¹⁰ Ameritech is also seeking additional franchises in a number of communities in Illinois and Ohio.

In 1996, Southern New England Telephone ("SNET") obtained a statewide franchise from the Connecticut DPUC, which allows it to compete directly with MediaOne's systems located in ten communities: East Granby, East Windsor, Enfield, Granby, Hartland, Somers, Stafford, Suffield, Union, and Windsor Locks and those of other cable operators throughout the state. Just recently, SNET launched service in Unionville, Connecticut, where Tele-Communications Inc. provides cable service.

BellSouth, through its subsidiary, BellSouth Interactive Media Services, Inc. ("BellSouth"), is competing head-to-head with MediaOne in parts of Florida and Georgia. BellSouth has adopted the strategy of using both wireline and wireless delivery systems to compete in the video services market.¹¹ In the wireline delivery, BellSouth has been granted or is applying for Title VI cable franchises in a number of Florida communities where MediaOne currently provides service. For instance, in unincorporated Dade County, two competitive franchises have been awarded: a county-wide franchise to BellSouth and yet another to a different provider, Strategic Technologies, Inc. ("STI"), for a smaller area that overlays MediaOne's

¹⁰ In the Matter of: Continental Cablevision of Southeast Michigan Petition for Determination of Effective Competition, Memorandum Opinion and Order, 12 FCC Rcd. 1467 (1997). In Madison Heights, Ameritech has not activated its cable service to customers as it is currently building its cable plant.

¹¹ Atlanta-Journal-Constitution, "BellSouth to Buy Cable TV Carrier," Feb. 13, 1997.

existing franchise.¹² In the MediaOne franchised area of St. John's County, Florida, BellSouth is seeking to expand service from a private development known as World Golf Village to the entire county. The county staff is in the process of evaluating the application.

In August, 1995, U S WEST Communications initiated a 12-month video dialtone ("VDT") trial that encompassed 43,000 homes in a portion of Omaha, Nebraska. Soon after the passage of the 1996 Act, U S WEST Communications obtained cable franchises from the applicable local franchising authorities and transitioned its video operations, branded U S WEST TeleChoice from a VDT provider to a Title VI cable operator. U S WEST Communications provides video and high-speed cable modem services in Omaha and competes directly with two other franchised cable operators in its service area, Cox Communications and Time Warner, Inc.

B. Local Telephone Companies Are Providing Video Competition Using Wireless Technology.

BellSouth has also recently begun acquiring wireless cable companies in Florida and Georgia. The recently acquired wireless services can provide coverage across multiple MediaOne franchised areas. In Georgia, through its agreement to acquire Wireless Cable of Atlanta, BellSouth plans to provide television and interactive services using MMDS technology to serve subscribers within the loop of Interstate Highway 285 which surrounds central Atlanta. In addition, using

¹² STI has recently applied for a county-wide franchise. If granted, STI will have the authority to overlay all areas that MediaOne serves in unincorporated Dade County.

wireline technology, BellSouth plans to offer video outside the Interstate 285 loop. The wireless cable acquisition gives BellSouth immediate ownership of approximately 9,000 subscribers.¹³ BellSouth has announced plans to replace Wireless Cable's analog equipment with digital technology, which will be capable of delivering more than 100 channels. Given that the wireless signal has a 35-mile range and that there are currently five towers in place across the Atlanta metropolitan area, BellSouth projects it can reach about 900,000 households, which equates to about 80 percent of the homes in the market.¹⁴

In another development, Gwinnett County, Georgia, granted BellSouth a ten-year franchise in December, 1996, that authorizes service to the entire county. BellSouth is currently extending cable to new housing developments in Gwinnett County and is also preparing to offer digital MMDS in Atlanta that will extend to additional parts of Gwinnett County.¹⁵

In Florida, BellSouth has completed its purchase of the wireless service owned by National Wireless Holdings' South Florida Television, which also has the capability to provide video services over a 35-mile radius coverage area.¹⁶ This affects all of Dade County as well as the southern part of Broward County. As of June, 1997, MediaOne provides cable service to some 900,000 Dade County

¹³ "BellSouth Acquires Wireless Cable of Atlanta Video Services To Be Available to 900,000 Households," Yahoo PR Newswire, Feb. 12, 1997, 9:13 AM EDT.

¹⁴ Atlanta-Journal-Constitution, "BellSouth to Buy Cable TV Carrier," Feb. 13, 1997.

¹⁵ "Rifkin Rolls Out New Look, Plans and Services," Multichannel News, July 7, 1997, at 26.

consumers and about 170,000 Broward County consumers in western, central and northeastern parts of Broward County. The wireless service will establish a large footprint for BellSouth's competitive services and has the potential to completely overlay MediaOne's franchised area in Dade County.

Additionally, BellSouth recently acquired wireless cable operations from American Telecasting, Inc. in nine other Southern markets. This acquisition will enable BellSouth to provide wireless cable service in six additional Florida markets: Jacksonville, Orlando, Daytona Beach, Ft. Myers, Lakeland, and Bradenton, and also in Louisville, Kentucky.¹⁷ In two of these markets, Jacksonville and Ft. Myers, MediaOne currently provides cable services to about 309,000 customers. In all of these cases, BellSouth's strategy is to offer its customers multiple communications services, including cable, cellular and local telephone services, on a single bill.¹⁸

In southern California, Pacific Bell Video Services ("PacBell"), a wholly owned subsidiary of Pacific Telesis, is competing head-to-head with MediaOne and other cable providers for single family homes as well as multiple dwelling units. PacBell is using digital MMDS to deliver 150 channels covering the entire Los Angeles basin, including Orange County, an area of more than five million homes.¹⁹

¹⁶ CableFAX Daily, July 1, 1997.

¹⁷ "BellSouth to Buy Wireless Cable Markets from American Telecasting," BellSouth News Release, Mar. 19, 1997.

¹⁸ "BellSouth Agrees to Buy Wireless Cable TV Services in Nine Southern Markets," Atlanta-Journal-Constitution, Mar. 20, 1997.

¹⁹ "Interview with Lee Camp," Inside Line News Bulletin, Sep. 27, 1995, at 3.

It is estimated that PacBell's wireless service has the potential to directly compete in MediaOne's service territories consisting of over 350,000 customers.

C. Electric Utilities Are Providing Video Competition Via Cable and OVS Systems.

MediaOne is also seeing utility companies or their affiliates emerge as competitors. One such entrant is the partnership of Utilicom Networks Inc. and Clay Electric Cooperative, Inc. d/b/a Access First Coast ("UCN-Clay"), that in May, 1997 was granted a franchise to serve the unincorporated areas of Clay County, Florida. MediaOne currently has a franchise for Clay County and serves about 30,000 customers. UCN-Clay plans to construct a 750 MHz hybrid fiber/coaxial ("HFC") system and to provide video, business telephony, and data services. This competitor proposes a two-year build-out plan. Clay Electric Cooperative, Inc. is the limited partner. UCN-Clay has also applied for a franchise to serve the Town of Orange Park, Florida, another community served by MediaOne.

In addition to facing Title VI franchised cable competition, MediaOne faces near-term OVS competition in its suburban Boston systems. Residential Communications Network, Inc. ("RCN") and its joint venture partner, Boston Edison, received Commission approval in February of 1997 to operate as an OVS provider.²⁰ RCN/Boston Edison has announced plans to make its service available in 48 towns, 20 of which are communities served by MediaOne, over the next three years. RCN/Boston Edison plans to offer local and long-distance telephone service

²⁰ In the Matter of: RCN-BETG, LLC Certification to Operate an Open Video System, Memorandum Opinion and Order, 12 FCC Rcd. 2480 (1997).

as well as cable television and Internet access.²¹ RCN has been leasing Metropolitan Fiber Systems' phone lines for the delivery of video service in the metropolitan Boston area and will extend its reach by using fiber Boston Edison has in place. Since the Commission approved RCN/Boston Edison's OVS application for certification earlier this year, RCN has been active in presenting the proposed fiber network to town officials, seeking franchises and/or right-of-way contracts at the local level to supplement its OVS approval. RCN recently signed an agreement with the City of Boston allowing it to provide cable television.²² The network being built is 750 MHz, two-way, with 110 usable channels. Within the past month, RCN launched a ten million dollar advertising campaign in the New England/New York area, attacking incumbent telecommunications providers and touting its own phone, cable TV, and Internet service offerings.²³

IV. DBS IS PROVIDING NATIONWIDE VIDEO COMPETITION TO CABLE SYSTEMS.

MediaOne faces vigorous competition from DBS providers in various video programming markets across the nation, including residential, commercial, urban, rural, single-family homes and multiple dwelling units ("MDU"). As noted earlier, DBS has established itself quickly as the fastest growing consumer electronics product in history. To date, more than five million American consumers have signed up for DBS service, many of whom have made a significant investment in

²¹ "RCN Launches Advertising Broadside," The Boston Globe, June 30, 1997, at B8.

²² "RCN to Launch Multimillion Dollar Ad Campaign," Boston Herald, June 30, 1997, at 40.

²³ Id.

DBS equipment. From December 31, 1996, to June 30, 1997, the DBS industry gained 868,000 customers, reflecting the strongest growth yet in a first-half-of-a-year period.²⁴ The DBS industry has invested heavily in nationwide advertising campaigns (more than \$100 million in 1996 alone).

Unlike DBS, cable operators, such as MediaOne, are not able to advertise a single price across the country or, for that matter, even in contiguous franchise areas because locally based rate regulation, local franchise obligations such as public, educational, and governmental ("PEG") access support, and local franchise fees impact the prices a cable operator can charge. Even with the Commission's uniform pricing rules, disparate ownership patterns and significant variations in price and service offerings from system to system make it impossible for cable to compete ubiquitously with DBS.

DBS providers have enjoyed recent successes in increasing their market penetration in urban areas. These successes are attributable to intensified advertising campaigns, exclusive programming, and the ability to offer to MDUs stripped down line-ups which do not include must carry, PEG, and leased-access channels that cable operators are required to carry. DBS has been entering cooperative marketing agreements more aggressively and on a wider scale. Marketing tie-ins with national retail stores (e.g., Circuit City, Radio Shack, and Best Buy) have led to increased DBS sales in urban areas due to the higher population density where these retail outlets are located. Unlike cable, DBS has

²⁴ Cable World, July 14, 1997 at 16.

exclusive program arrangements for packages of NBA, NHL, and NFL games that are extremely attractive to consumers who are sports fans.

V. SMATV COMPETITION IS INTENSIFYING ACROSS THE UNITED STATES.

Private cable or SMATV competition is extremely active. In Florida, for example, MediaOne faces competition from more than a dozen SMATV providers in the commercial and residential MDU markets. In Georgia, MediaOne is competing against more than 30 SMATV providers. There are a dozen SMATV operators that compete in MediaOne's California service areas, approximately six in MediaOne's Illinois service area, and more than five in MediaOne's service areas in several New England states. A number of these SMATV providers, such as OpTel, Inc., ICS Communications, Inc., Cable Plus, One Point Communications (a Southwestern Bell affiliate), and GE Rescom, have established a national presence and compete directly with MediaOne and other cable providers across the United States.

A number of niche markets are developing. Within the past two years national property management companies and ownership groups such as Real Estate Investment Trusts ("REITS") with multiple properties in different states have begun to negotiate baseline terms and conditions for multichannel distribution services on a nationwide basis, rather than negotiating a separate agreement for each property in each area in which they operate. This is occurring in Georgia, Southern Florida, Michigan, and California communities that MediaOne serves. REITS, as buyers of SMATV video services, are changing the nature of the MDU market, in effect nationalizing it and using that greater market power to gain

favorable terms. The opportunity to do business nationwide brings additional competition to a market that was previously fragmented and less attractive.

The Commission has requested comment on the development of competition in MDUs and on the consequences of the 1996 Act's amendment of Section 623(d) of the Communications Act which permits cable operators to offer non-predatory bulk pricing to MDUs. U S WEST believes that this change has generally led to a more level playing field. Under the 1996 Act, cable operators are given the flexibility to tailor the pricing of video programming to MDU owners, allowing operators to compete against SMATV and MMDS providers which are not subject to price regulation in that important niche market.

VI. U S WEST IS MEETING COMPETITIVE CHALLENGES BY INVESTING IN INFRASTRUCTURE AND CUSTOMER SERVICE, CREATING ADDED PROGRAMMING VALUE, AND REMAINING PRICE COMPETITIVE.

In U S WEST's view, a long-term commitment to service, quality, and value is essential to maintaining customer satisfaction and loyalty in a competitive market where consumers are well aware that other options are available through alternative providers. In the face of multichannel video competition, MediaOne has undertaken an expensive capital upgrade program to position itself to provide the highest quality service and value to existing and prospective customers and to offer new products and services in its service areas.

For this reason, MediaOne has embarked on a multi-billion dollar capital expenditure program to upgrade or rebuild substantially all of its systems by the end of the year 2000. By deploying HFC networks in combination with digital compression technology, MediaOne will be able to provide consumers with greater

choice of entertainment, information, and communication services, leading the way to greater customer satisfaction.

In addition to providing the benefits of advanced technology, MediaOne is offering consumers various programming packages to satisfy individual tastes and income levels. Programming choices span from the lowest cost “Lifeline tier,” which includes local broadcast stations, local origination, and PEG access channels and is typically priced below \$10 per month, to expanded basic tiers and premium service and pay-per-view offerings. MediaOne has added value to its expanded basic tiers, for example, by shifting popular channels, such as The Disney Channel and regional sports channels, to these expanded basic tiers. As explained in Section VII.D. below, these channels were previously available only on a premium basis as part of a package of premium services or individually as “a la carte” pay-TV services.

To the extent that the cable industry continues to enjoy a competitive edge, it is due to cable operators’ ongoing support and delivery of broadcast stations and satellite-delivered services, the deployment of two-way HFC networks, the creation of unique local programming, and improvements in customer service, such as the “On Time Guarantee” program.²⁵ MediaOne has instituted a number of its own

²⁵ Beginning in March of 1995, cable operators across the county implemented the “On Time Guarantee” program. This program provides that the operator will guarantee on-time installation or the installation is free to the subscriber and on-time service appointments or the consumer will receive a \$20 refund. MediaOne has long made customer service an essential component of its commitment to serving customer needs and has actively participated in the “On Time Guarantee” program since its inception.

customer service improvements, such as comprehensive training for customer service representatives, supervisors, and managers; extended office hours and 24 hour-a-day on-call service technicians; two-hour appointment windows; and post-call quality assurance programs to monitor customer satisfaction after installation. MediaOne has created larger customer care service centers in a number of states, including Ohio, Michigan, California, Massachusetts, and Georgia. The expanded service centers are more fully staffed and customers appreciate the extended service hours. Centers in Ohio, Georgia, and Massachusetts, for instance, are staffed to respond to subscriber inquiries 24 hours a day, seven days a week, 365 days a year.

MediaOne has made a significant investment in interactive voice response ("IVR") system technology which allows customers to obtain quickly information such as individual billing information and directions to the customer care center and to order pay-per-view services and activate converter boxes. This is an automated 24-hour dial-up service. MediaOne is in the early stage of deploying such a system company-wide.

Lastly, MediaOne has created a corporate Internet website located at the URL address of www.mediaone.com which is continuously updated and expanded. In May of 1997, the website was totally reengineered to make it even more customer friendly and better meet customer needs. A key purpose of the MediaOne website is to provide customer service information, including an interactive online customer communications service. As an alternative to the telephone, the customer can transmit an inquiry to MediaOne and obtain a response via email. The MediaOne website also provides information that is specific to that customer's

service area, such as the channel line-up. Other general customer information is available, for example, information and diagrams to help trouble shoot reception problems, instructions on VCR hook-ups, how to read a subscriber bill, billing locations and customer care center telephone numbers.

VII. MEDIAONE'S PRICES FOR VIDEO PROGRAMMING HAVE BEEN REASONABLE AND COMPETITIVE IN LIGHT OF INFRASTRUCTURE INVESTMENTS, PROGRAMMING INCREASES, AND OTHER FACTORS.

U S WEST believes its prices for video programming are reasonable and competitive in light of the substantial investment it is making in system rebuilds and customer service, increases in programming costs, and some of the additional public service obligations that only cable operators bear. In the NOI, the Commission noted that cable rates have risen recently and requested information on cable operators' rates, in particular on rate restructuring efforts and to what extent these efforts are intended to differentiate cable service from that of competing video services. Some observations regarding DBS have already been made. The following discussion addresses in more detail MediaOne's prices and the factors that impact cable pricing.

A. Cable Continues To Deliver Good Value.

Generally, cable operators have kept prices competitive with other distributors, providing good value to customers. According to Paul Kagan Associates, the average monthly cable bill for basic service (basic broadcast plus expanded basic) was \$24.57 in December 1996. Cable's value is also reflected in

customer numbers that continue to grow -- up 2.6 percent last year.²⁶ In addition to the costs of constructing and operating their networks, cable operators are subject to public interest obligations that most other video providers do not share.

Obligations such as PEG access channels, institutional networks, franchise fees, and other taxes make it more costly for cable operators than for MMDS or DBS providers to deliver a comparable package of services. In 1996 alone, cable companies paid franchise fees of \$1.4 billion to state and local governments. Such franchise fees were intended originally to reimburse local franchising authorities for the cost of administering the franchises. With the 1984 Cable Act's five percent cap, that nexus was eliminated. In addition, cable is subject to a host of local taxes, including sales taxes, whereas DBS was exempted in the 1996 Act from any form of local taxation. These various obligations directly impact cable operators' ability to remain price competitive.

B. MediaOne Has Invested More Than \$300 Per Subscriber In System Rebuilds.

As noted earlier, MediaOne is committed to providing its customers with the benefits of advancements in technology. By rebuilding its networks, which means replacing thousands of miles of one-way coaxial plant with two-way HFC networks and replacing hundreds of thousands of analog converters with more advanced set-top boxes, MediaOne will be able to compete more effectively against the various video providers. In 1997 alone, MediaOne will spend \$650 million rebuilding its networks. Combined with expenditures of \$829 million in 1995 and 1996, this

²⁶ Paul Kagan Associates, The Cable TV Financial Databook, June 1996, at 11.

represents an investment since 1994 of more than \$300 per subscriber. For MediaOne customers the rebuilds mean having networks capable of providing between 60 and 90 analog video channels plus 80 to 300 more digital video channels.

C. MediaOne Subscribers Experienced Average Increases Of 5.7 Percent In 1996 While Receiving Four New Channels.

During 1996, MediaOne's first full year under its Commission Social Contract, MediaOne's customers experienced average increases in their monthly cable bills of approximately 5.7 percent. At the same time, however, customers received an average of four new channels of programming and benefited from service improvements as a result of MediaOne's investment last year of \$428 million in system rebuilds. About 40 percent of the rate increase subscribers experienced was due to hikes in programming costs represented by the addition of new channels and supplier increases in the cost of existing channels. The balance of the increase was attributable to the aforementioned network upgrades and to inflation associated with salaries, benefits, and other operating expenses.

D. MediaOne Is Shifting Premium Channels To Expanded Basic Tiers In An Effort To Deliver More Value To Customers.

In response to competition in the video marketplace, one of MediaOne's programming strategies is to improve its expanded basic (CPST and MPT) tier offerings by repositioning popular premium channels to these tiers. In order to better compete against DBS providers' service offerings, over the past year, MediaOne has shifted certain premium channels, such as the Disney Channel and certain regional sports services, including SportsChannel New England and

Michigan's regional Pro-Am Sports Service ("PASS"), from either: a) an a la carte premium offering; or b) part of a package of premium services to an expanded basic (CPST or MPT) tier. Nearly 2.5 million MediaOne subscribers today receive the Disney Channel on an expanded basic tier. This amounts to almost half of MediaOne's customers. In all of MediaOne's Los Angeles area systems, the Disney Channel has been repositioned from a pay television service to part of the expanded basic package. The Disney Channel has also been re-tiered in the suburban Chicago systems. This change has also taken place in selected markets in the Midwest, Southeast, and Northeast.

In the Northeast, MediaOne has moved SportsChannel New England from premium basis to expanded basic. The shift was completed on January 1, 1997, for systems serving nearly one million customers. For MediaOne's recently acquired TCI and Cox properties in New England, the same repositioning of SportsChannel is due to be completed by the end of 1997. This represents an additional 140,000 basic ("Lifeline") customers who will be able to select SportsChannel on an expanded basic tier.

In Michigan, MediaOne is repositioning PASS from partial premium carriage to full-time expanded basic carriage. In some systems, PASS was available during the day on the CPST, while it was offered as a premium service in the evening. As of June 30, 1997, the number of expanded basic subscribers receiving PASS was 212,000. In yet another example of regional sports channel repositioning, on MediaOne's Stockton, Yuba City, and Fresno, California, systems, serving

approximately 243,000 customers, SportsChannel Pacific, formerly carried as a premium service, is now carried as part of the expanded basic tier.

Although the retail price for the expanded basic tiers has increased slightly with the movement of such channels, the downward migration of premium channels represents a significant enhancement to the expanded tier.

VIII. MEDIAONE IS ENCOUNTERING ANTI-COMPETITIVE BEHAVIOR ON THE PART OF ELECTRIC COOPERATIVES AND MUNICIPALLY OWNED UTILITIES WITH RESPECT TO POLE ATTACHMENT PRICES.

The Commission has asked commenters to address pole attachment rates charged by cooperatives and municipally owned utilities which are exempt from pole attachment regulation and how such rates impede or promote competition. The 1978 Pole Attachment Act, as amended by the 1996 Act,²⁷ exempts municipally owned or cooperatively owned utilities from compliance with the pole attachment formula. U S WEST is seeing an increase in anti-competitive behavior in the pole attachment area from municipalities and electric cooperatives that seek to position themselves as telecommunications providers.

Beginning in January of 1996, the City of Los Angeles, Department of Water and Power ("DWP"), notified cable operators of its intention to enter into negotiations for a new pole attachment agreement. The DWP proposed restrictions against overloading and the use of coax-fiber bundles and a limitation on the number of fibers. However, if the operator agreed to deed to the City of Los Angeles title to its fiber optic plant, the operator would receive a license to use 85 percent of

²⁷ 1996 Act, Section 703 (codified as Communications Act § 224, 47 U.S.C. § 224).